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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,401	12/20/2001	Philip A. March	DON01 P-951	6174

28101 7590 08/27/2003

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EXAMINER

LE, TAN

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/032,401

Applicant(s)

MARCH ET AL.

Examiner

Tan Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-128 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-12, 21-24, 29, 67-70, 80, 82, 83, 101-104, 114, 116 and 117 is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 27 May 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Continuation of Disposition of Claims: Claims withdrawn from consideration are 6,14-17,19,20,31-36,39,41-44,47-56,64,72-75,81,87,89,90,93,94,98,106-109,115,121-124,127 and 128.

Continuation of Disposition of Claims: Claims rejected are 1-5,7,8,13,18,25-28,30,57-59,61-63,65,66,71,76-79,84,95-97,99,100,105,110-113 and 118.

DETAILED ACTION

1. This is the third office action for application serial number 10/032,401. This action is corresponding to an amendment filed on 5/27/03 which entered as paper # 8. This application remains 128 claims numbered 1-128. Claims 6, 14-17, 19-20, 31-36, 39, 41-44, 47-56, 64, 72-75, 81, 87, 89, 90, 93-94, 98, 106-109, 115, 121, 122, 123, 124 and 127-128 were withdrawn from further consideration pursuant to 37 CFR 1.142(b) as pointed out in the previous action.
2. The proposed drawings correction filed on 5/27/03 has been approved.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-5, 7-8, 13, 18, 25-28, 30, 57-59, 61-63, 65-66, 71, 76-79, 84, 95-96, 97, 99-100, 105, 110-113 and 118 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,646,210 to Skogler et al. in view of U.S. Patent No. 2,456,182 to Goble.

Regarding claims 1-4, 25-28, 30 and 57, Skogler et al. discloses a vehicular mirror and light assembly comprising: a rearview mirror mount (14, 12) a rearview mirror housing (15, 17, 26, 13) (Fig. 3) ; a rearview mirror support (11); a first pivot element (12); a second pivot element (13); the support being pivotally attached to the mount by the first pivot element and the housing being pivotally attached to the support by the second pivot element; at least one electrical accessory (Fig. 7 and 19, for

example) included in the housing and electrical conductors (130, 140) connecting the electrical accessory and extending to outside the support as shown in Fig. 1.

Unlike Skogler, Goble teaches the conductors (24, 25) extending through the first and second pivot elements, the support and the housing of the device.

It would have been obvious and well within the level skill in the art at the time the invention was made to have modified the conductors of Skogler to include the conductors extending through the first and second pivot elements as taught by Goble because Goble' provides more securely protected for the conductor and more safety for the users inside the vehicle.

Skogler in view of Goble discloses substantially as claimed as discussed above except for each of the mount, the support, the housing, first pivot and the second pivot element being formed in its respective color and molding from polymeric material.

It would have been an obvious matter of design choice to form each element having different color or substantially the same color since Applicant has not disclosed that the different color or the same color solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with other elements having different color other than the color as claimed. The particular color and material claimed by the Applicant is nothing more than one of numerous colors and material that a person having ordinary skill in the art provides for using routine experimentation based on its suitability for the intended use of the invention, and further does not produce any unexpected results.

Claims 61-62, 76-79, 84, 95-96, 110-113 and 118 include limitations similar to those recited in claims 1-4, 25-28, 30 and 57 are therefore, also disclosed by Skogler in view of Goble.

Regarding claims 5, 7-8, 13 and 18, Skogler in view of Goble also discloses that the first and the second pivot elements each comprises a ball pivot member and the support comprises a hollow sleeve having sockets at both ends which receive and frictionally engages the ball pivot members.

Claims 63, 65-66, 71, 97, 99, 100 and 105 include limitations similar to those recited in claims 5, 7, 8, 13 and 18, are therefore, also disclosed by Skogler in view of Goble.

Regarding claims 58, 59 Skogler as modified also teaches the electrical accessory comprising an electro optical mirror element (80, 98) and an electrical circuit board (140, 149, 130).

Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Skogler in view of Goble and further in view of U.S. Patent No. 6,420,975 to Deline et al.

Unlike Skogler and Goble, Deline et al. teaches the electrical accessory comprising at least one microphone mounting in the rearview mirror housing (1020, 1022, 1024, 1026).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the microphone feature in the housing as taught by Deline et al. in order to speak from inside of the vehicle. Further, the use of

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microphone in the rearview mirror housing is well known and to use such in the same intended purpose would have been obvious to one skilled in the art thereby providing structure as claimed.

Claims 37-38, 40, 45-46, 85-86, 88, 91-92, 119-120 and 125-126 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skogler in view of Goble and further in view of U.S. Patent No. 4,936,533 to Adams et al.

Regarding claims 37-38, 40 and 45-46, Skogler as modified teaches a support member (14) (Fig. 5) adapted for receipt over a retainer or button mounted on the inside surface of a windshield to support the rearview mirror assembly (Col. 5, lines 18-20), but does not explicitly disclose as claimed in claims 37-38, 40 and 45-46 above.

Adams teaches the mount including a means on one surface for pivotal attachment to the support, and a cooperating receiving members on another surface comprising spaced slide surfaces and being inclined inwardly toward one another creating a wedge shaped, double tapered attachment member for slidably attaching to the fastener.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have implemented Adams' teaching into Skogler as modified because this teaching would have enabled the mount to be slidably attached to the fastener (34) in order to support the rearview mirror assembly.

Claims 85-86, 88, 91-92, 119-120 and 125-126 include limitations similar to those recited in claims 37-38, 40 and 45-46, are therefore, also disclosed by Skogler in view of Goble and further in view of Adams et al.

Allowable Subject Matter

4. Claims 9-12, 21-24, 29, 67-70, 80, 82-83, 101-104, 114 and 116-117 are allowed.

Response to Arguments

5. Applicant's arguments filed 5/27/03 have been fully considered but they are not persuasive.

Applicants have further amended claims 1, 61 and 95 to include every element in claims such as rearview mirror, rearview mirror housing, a rearview mirror support, first pivot element and second pivot element each being molded from a polymeric material. However, the examiner respectfully submits that the recitation of such above still reads on Skogler et al. in view of Goble, and it does not provide patentably distinguishing structure over the Skogler et al. in view of Goble. Claims 1, 61 and 95 are now referring to the process step such as molding which is not accorded patentable weight in the product-by-process claims. It is well settled that the patentability of a product does not depend on its method of production. Product-by-process claims are not construed as being limited to the product formed by the specific process recited. In re Hirao et al., 535 F2d67, 190 USPQ 15.

The rejection based on Skogler et al. in view of Goble and further in view of Adams et al. is still maintained.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Tan Le, whose telephone number is 703.305.8244. The Examiner can normally be reached on Tuesday through Thursday, 9:00-6:00 and alternating Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for official communications and (703) 872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this Application should be directed to the Group receptionist at 703.308.2168.



Tan Le
Patent Examiner
AU 3632
August 20, 2003



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER